IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

Single Bench

Cr.M.P. NO. 90 OF 2006

4189/06

Filed on 25/9/06
by Shri Sanjeev Bahar Advocate
25/9/06
R & D.R. (J)

PETITIONER: Ballaram, 31 years S/o Amarlal Lodhi, R/o Udaan, Thana Chhuikhadan, Distt Rajnandgaon (CG)

Versus

RESPONDENT: Sunitabai, D/o Bahalram Lodhi, R/o Rangakthera, Thana Khairagarh, Tehsil Khairagarh, Distt Rajnandgaon (CG)

PETITION UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973 FOR QUASHING OF THE REVISIONAL ORDER DATED 07.08.2006 PASSED BY THE ADDITIONAL SESSIONS JUDGE, KHAIRAGARH, DISTRICT RAJNANDGAON

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P...90... **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

14.12.2006

Shri Rajendra Tripathi, counsel for the petitioner.

Heard on admission.

Order passed as follows:

ORAL ORDER
(14.12.2006)

SUNIL KUMAR SINHA, J.

This petition is directed against the order dated 7.8.2006, passed in criminal revision No. 123/2005 by the Additional Sessions Judge, Khairagarh, District-Rajnandgaon. It appears that by the aforesaid order, the learned A.S.J. dismissed the criminal revision filed by the petitioner against the order dated 18.8.2005, passed in criminal case No.61/2002 by the Additional Chief Judicial Magistrate, Khairagarh, which was an order passed under Section 125 Cr.P.C., by which, the learned magistrate has granted a sum of Rs.550/- per month as the amount of monthly maintenance to the respondent.

The brief facts are that the respondent had filed the aforesaid petition on the ground of cruelty. The petitioner had resisted the claim of the respondent and had raised the plea that the respondent used to frequently run away from his house and she was not properly discharging conjugal relations with him, whereas, he had tried his level best to keep the respondent as his wife. He had denied the factum of cruelty raised by the respondent.

A perusal of para 3 of the impugned order would show that a proceeding under Section 498-A IPC was also drawn between the

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parties and it comes in the said paragraph that after holding the accused persons guilty in the said offence, an appeal is pending before the High Court. It is stated that a false report was lodged by the respondent under Section 498-A IPC. The trial Court hold that the respondent was entitled to a maintenance of Rs.550/- per month. Against the aforesaid order, a criminal revision was filed, in which the revisional court also took the similar view and after discussing the entire evidence produced by the parties, dismissed the aforesaid revision filed by the petitioner.

Before this Court, learned counsel for the petitioner raised only one point. His submission is that the petitioner belongs to labour class and the amount of maintenance granted to the respondent is on the higher side and he is not in a position to pay such amount to the respondent.

This point was also raised before the revisional court. Vide para 20, the revisional court has considered that in the present state of affairs, the amount of Rs.550/- per month as the amount of monthly maintenance is quite moderate and it has refused to interfere with the quantum awarded in favour of the respondent.

The provision of Section 125 Cr.P.C. are enacted for social justice and especially to protect the women and children as also the old and infirm poor parents and falls within the constitutional sweep of Article 15 (3) reinforced by Article 39 of the Constitution. The provision gives effect to natural and fundamental duty of a man to maintain his wife, children and parents so long as they are unable to maintain themselves.

P.T.O.

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आदेश पत्रक (पूर्वानुबद्ध)

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The above provision contained in Section 125 would clearly indicate that it is an essential obligation cast upon a person and in light of the same; if the entitlement is established, the person concerned is required to fulfill obligation, if the same is reasonable and moderate.

In the opinion of this Court, the amount of Rs.550/-, granted as monthly maintenance by the Courts below to the respondent, in now-a-days, is a moderate amount, which does not warrant interference under the inherent powers saved under Section 482 Cr.P.C.

There appears to be no merits in this petition. The same is dismissed at the motion stage itself.

No costs.

Sd/-
Sunil Kumar Sinha
Judge

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